UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/2002/7
15 August 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-fourth session
Agenda item 3

ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY

Report of the sessional working group on the administration of justice

Chairperson-Rapporteur: Ms. Antoanella-Iulia Motoc

GE.02-15068 (E) 160802

Introduction

1. By decision 2002/101 of 30 July 2002, the Sub-Commission on the Promotion and Protection of Human Rights decided to establish a sessional working group on the administration of justice. With the agreement of the Sub-Commission members, the Chairman appointed the following experts as members of the working group: Ms. Françoise Hampson (Western European and other States), Ms. Antoanella-Iulia Motoc (Eastern Europe), Ms. Florizelle O'Connor (Latin America), Mr. Soli Jehangir Sorabjee (Asia), Mr. Yozo Yokota (alternate) and Ms. Lalaina Rakotoarisoa (Africa).

2. The following members of the Sub-Commission also took part in the discussions of the working group: Mr. Cristiano Dos Santos Alves, Mr. El-Hadji Guissé, Mr. Asbjørn Eide, Mr. Miguel Alfonso Martínez, Ms. Leïla Zerrougui, Ms. Halima Warzazi and Mr. David Weissbrodt.

3. The working group held two public meetings, on 30 July and 2 August 2002. The present report was adopted by the working group on 8 August 2002.

4. A representative of the Office of the High Commissioner for Human Rights opened the session of the working group. The working group elected, by consensus, Ms. Motoc as Chairperson-Rapporteur for its 2002 session.

5. Representatives of the following non-governmental organizations took the floor during the debate: Canadian Inuit Indigenous Group, Citizens of the World, Indigenous World Association, Institute for Justice and Peace, Interfaith International, International Service for Human Rights and Pax Romana.

6. The working group had before it the following document:

Report of the 2001 sessional working group on the administration of justice (E/CN.4/Sub.2/2001/7).

7. The Chairperson also pointed out that the following documents, which were initiated at the working group and were the results of its efforts, were available and would be discussed under item 3 during the plenary meeting of the Sub-Commission: "Issue of the administration of justice through military tribunals", report submitted by Mr. Louis Joinet (E/CN.4/Sub.2/2002/4); "Discrimination in the criminal justice system", final working paper prepared by Ms. Leïla Zerrougui (E/CN.4/Sub.2/2002/5); and "Scope of the activities and the accountability

of armed forces, United Nations civilian police, international civil servants and experts taking part in peace support operations (i.e. all operations of a peacekeeping or peace enforcement nature under a United Nations mandate)", work in progress submitted by Ms. Françoise Hampson (E/CN.4/Sub.2/2002/6).

Adoption of the agenda

8. At its first meeting, the working group considered the provisional agenda contained in document E/CN.4/Sub.2/2001/7. Following discussion among members of the working group, the title of item 3 of the agenda was changed. On the proposal of Ms. Hampson, a new topic, "Discriminatory rules of evidence with regard to rape and sexual assault", was added to the agenda. On the proposal of Mr. Guissé, the topic "Current trends in international criminal justice" was added to the agenda. With those additions, the agenda for the session was adopted as follows:

1. Issues relating to the deprivation of the right to life, with special reference to the imposition of the death penalty.
2. Privatization of prisons.
3. Improvement and efficiency of the judicial institutions for the protection of human rights at the national level.
4. The domestic implementation in practice of the obligation to provide domestic remedies.
5. Transitional justice: mechanisms of truth and reconciliation.
6. Other issues
   (a) Discriminatory rules of evidence with regard to rape and sexual assault;
   (b) Current trends in international criminal justice.
7. Provisional agenda for the next session.
8. Adoption of the report of the working group to the Sub-Commission.

I. ISSUES RELATING TO THE DEPRIVATION OF THE RIGHT TO LIFE, WITH SPECIAL REFERENCE TO THE IMPOSITION OF THE DEATH PENALTY

9. Mr. Guissé reported that 54 countries had abolished the death penalty. It was alarming, however, that the number of countries that maintained the death penalty on the statute books had increased from 97 last year to 103 this year. Application of the death penalty to minors, as in the United States and in Saudi Arabia, was of great concern. In some countries, the authorities used

the death penalty to eliminate their political rivals and to keep control over the people. Mr. Guissé further observed that the media had played a negative role in publicizing executions, sometimes even encouraging people to commit crimes as a way to attract attention. The media should cease that practice. In the United States, methods seem to have been adopted which distort the public attitude towards the death penalty, making it appear as a sort of vengeance. Executions by gas and electric chair and mental torture of the entire family were alarming, especially since such mechanisms had racial overtones. Mr. Guissé also reported that de facto abolition existed in some countries, with the penalty still on the books but not being implemented. De facto abolition of the death penalty did not guarantee, however, that the next regime would not apply it. Thus, there should be encouragement to transform de facto to de jure abolition. In general, abolition of the death penalty should be encouraged.

10. Ms. Hampson commented that she had always found it strange that the State killed people because they had killed people. The deterrent aspect of the death penalty was problematic. Rights were inherent and not an award for a good behaviour. The mark of a society was how it treated its criminals, and to kill them did not speak well. This year, executions of people under the age of 18 continued, mostly in the United States. In a resolution the Sub-Commission had noted that the execution of people who were under the age of 18 at the time of the commission of the offence violated customary international law. It was less clear whether the execution of the mentally abnormal was considered to be a violation of customary international law, but there was a movement in that direction. The principle of non-refoulement applied to capital punishment should be adopted by all States which did not have the death penalty. Ms. Hampson also agreed that the death penalty should never be carried out in public, and that it would be useful for the Sub-Commission to affirm that. As to the discriminatory application of the death penalty, the assistance of the non-governmental organizations, especially those from the United States, would be welcomed in providing detailed information on the racial and poverty aspects.

11. Mr. Sorabjee outlined the following three reasons for abolishing the death penalty: (a) the fallibility of the judicial process; (b) corruption of the investigative process; and (c) the irrevocability of the death penalty.

12. Mr. Yokota was concerned that the death penalty was sometimes used to eliminate political enemies. Additionally, the frequent implementation of the death penalty by military tribunals which conducted confidential procedures away from the public eye, was of concern.

13. Ms. Zerrougui noted Mr. Joinet's interesting work on military courts. She also stated that while the ultimate goal was the abolition of the death penalty, many States were not yet ready for that. Meanwhile, it should be assured that the death penalty was not applied to juveniles, the mentally abnormal and the sick.

14. Representatives of the Pax Romana agreed that the death penalty should be abolished. They observed, however, that at the Commission on Human Rights, the concept of national sovereignty was used to shield the death penalty.

15. Several Sub-Commission experts took the floor to comment. Mr. Guissé and Mr. Yokota believed that the national sovereignty argument could not be used to maintain the death penalty. In view of the fact that the abolition of the death penalty had not met with unanimity, Ms. Warzazi believed that the international community should move gradually towards abolition and, as a start, ensure that minors and those who were not fully in possession of their faculties were not executed. To date, the United Nations had not stated that the death penalty was a flagrant violation of human rights. Ms. Hampson said that when the decision to abolish the death penalty was made in the United Kingdom, the majority of the public were not in favour of the decision. Abolition of capital punishment was an issue in which the politicians had to take a lead. Even if the international community had not yet stated that the death penalty is always illegal, the argument must stand that the universally recognized right to life was involved and thus national sovereignty cannot be invoked. First, there should be consensus to abolish the death penalty for juveniles and the mentally ill.

16. Ms. O'Connor observed that, in the Caribbean, discrimination was also associated with social status and the poor were more likely to be subject to removal by judicial execution. Those sentenced to the death penalty were often defended by legal aid lawyers. A quality legal aid system needed to be put in place. As an alternative to the death penalty, life imprisonment with work, with a certain percentage of the income going to the victims' families, could be proposed. Intrusion of United States social mores, including the death penalty, into the countries of the South needed to be balanced and alternatives needed to be presented. In few countries would one find politicians bold enough to vote to abolish the death penalty, when the majority of people supported it.

17. Mr. Weissbrodt commented on Ms. Hampson's point that even in the United Kingdom, it was not certain that a poll would show a majority of the public to be against the death penalty. The problem was that the results of such polls were often flawed and depended on the way in

which questions were asked. Political leaders were unwilling to take leadership roles and hid behind those inaccurate polls. Mr. Sorabjee agreed that a lot depended on the question ed, but also on the time when it was asked. When gruesome murders were committed, there was a popular demand for the death penalty.

18. An NGO observer asked the experts' opinion about a State, such as Pakistan, using religion as the basis for implementing the death penalty. The experts agreed that while there should be respect for religions, they should not be interpreted as requiring the death penalty. If it is decided to abolish the death penalty, the policy should apply to everyone, regardless of religion.

19. The observer for Mexico suggested that, given the increased migratory flows worldwide, it was important that international law should ensure due process for persons accused of crimes in the countries in which they found themselves. The Vienna Convention on Consular Relations dealt with this matter. The right to information about consular access was very important and the issue should be examined by the working group.

20. An observer for the Institute for Justice and Peace asked what faith one could place in the justice systems of South Asia, and especially of India, where the predominant religion, Hindu, had as a core belief that all people were not born free and equal.

21. An observer for the Citizens of the World expressed the view that the discussion on the death penalty was often highly symbolic, which should not be the case.

II. PRIVATIZATION OF PRISONS

22. Mr. Alfonso Martínez reported that privatized prisons had become one of the most lucrative businesses in North and South America and in Europe. The tendency to reduce obligations, which had been traditionally assigned to the State was increasing. The privatization of prisons was based on the concept of imprisonment as a form of punishment rather than a form of rehabilitation and reintegration into society. The primary objective of imprisonment should not only be to punish, but also to re-educate and reintegrate. That was not, however, an objective of a private company which was interested in maximizing profit.

23. The administration of prisons is regulated, inter alia, by the 1977 Standard Minimum Rules for the Treatment of Prisoners and United Nations Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). The problem was how to verify in practice the compliance with United Nations standards by the private administrators of prisons. An additional problem was how State funding and subsidies for prisons were used by private prison

administrators. Some States privatized prisons because it appeared to be a cheaper solution. However, the question whether it was in fact cheaper remained to be answered.

Mr. Alfonso Martínez gave examples of three Latin American countries, Chile, Costa Rica and Mexico, which were following this particular trend and either had privatized or were considering privatizing prisons.

24. Ms. Rokotoarisoa noted that prison problems included overcrowding, malnutrition and poor conditions of detention. The privatization of some services, including catering and building maintenance, contributed to the improvement of prison conditions and to making them more humane. The State should, however, remain in charge of certain detention policies for reasons of security and confidentiality. She asked Mr. Alfonso Martínez about the distribution of responsibility between the State and a private company in the case of the escape of a detainee or of human rights violations.

25. Mr. Alfonso Martínez replied that better conditions through privatization were not the focus of his presentation, which concentrated on whether it was suitable for the State to hand over its traditional responsibilities to a private company. Trends towards privatization were occurring because of the budget problems experienced by States. It was a broader issue than prison conditions. The State bore responsibility for guaranteeing that no human rights were violated in prisons.

26. The observer for Angola agreed that one had to be very careful about the privatization of prisons, which could have terrible repercussions on the lives of prisoners, especially in the countries of the South which had difficulty even feeding people who lived in freedom. The observer for Mexico agreed that States were probably undertaking privatization efforts because of financial problems. Prison labour was another issue that should be explored. The observer for Costa Rica said that privatization was taking place because of prison overcrowding, lack of resources, and in order to cope with more violent crimes. However, Costa Rica wanted to respect human rights and had taken measures to monitor treatment applied to prisoners.

27. Ms. Hampson commented on the importance of the issue, which depended on whether international instruments required States to honour those obligations when privatizing their facilities. The working group needed to decide how to proceed on the issue, including whether there was a need for a report or resolution. Mr. Yokota added that the working group felt last year that a written report should be provided on the issue and asked to receive a list of specific areas of human rights violations occurring in the concrete situation of privatized prisons.

Mr. Alfonso Martínez expressed the view that the Sub-Commission's parent bodies should authorize a study but were not yet convinced of its usefulness. Consideration of the issue should not be unduly prolonged in the Sub-Commission and a special rapporteur on the issue should be appointed. The Sub-Commission and the Commission should not discontinue the issue. As an alternative solution, Mr. Alfonso Martínez suggested that the working group should keep the issue under consideration for at least another year.

III. IMPROVEMENT AND EFFICIENCY OF JUDICIAL INSTITUTIONS FOR THE PROTECTION OF HUMAN RIGHTS AT THE NATIONAL LEVEL

28. The working group members discussed the relationship between items 3 and 4 of the agenda. The secretariat distributed copies of the interim report (E/CN.4/Sub.2/1999/WG.1/CRP.1) and second report (E/CN.4/Sub.2/1999/WG.1/CRP.1) prepared by Mr. Fix Zamudio to the members of the working group so they could decide whether to continue discussion of item 3 during next year's working group.

IV. DOMESTIC IMPLEMENTATION IN PRACTICE OF THE OBLIGATION TO PROVIDE DOMESTIC REMEDIES

29. Ms. Hampson commenced her presentation by identifying the following paradox: while most States had ratified most of the international human rights instruments, the international community continued to receive numerous well-attested reports of serious human rights violations in many of those countries. At least superficially, this was not the result of government opposition to the principles. It was necessary to identify as accurately as possible the cause of this problem in order to have any chance of addressing it.

30. The question was posed whether the problem lay in the rules which regulated the relationship between international and domestic law. Commonly, such rules were contained in constitutional law and provided that a ratified international treaty had the same status as domestic law. One would then expect national judges to apply international legal provisions, but that seemed to be the exception rather than the rule. Was the problem then inadequate training of lawyers and judges, or did the way in which the treaties were drafted contribute to the problem? The problem could lie in the fact that in many cases judges seemed to apply domestic legislation even if it conflicted with the constitution. Or did the problem lie in the transformation of international legal obligations into the national legal order?

31. States were required by the principle of "good faith" to give effect to the provisions of a ratified treaty (*pacta sunt servanda*). Furthermore, human rights treaties contained one or more

provisions in which the ratifying State undertakes to implement necessary legislative measures to give effect to the treaty. In addition, most human rights treaties stipulated that the State was required to provide an effective domestic remedy for the alleged violation of a conventional right. Before any complaint could be investigated by an international mechanism, any domestic remedies must be exhausted. States were usually the first to insist on the subsidiary character of international supervision. In other words, States had both the right and the obligation to provide an effective domestic remedy, and it was in their interest to do so if they wished to avoid international scrutiny.

32. Any human rights violation was evidence of flawed implementation. Repeated and well-documented human rights violations suggested defective implementation of the substantive right, but also the ineffectiveness of any alleged domestic remedy. This might well mean that a victim did not have to exhaust domestic remedies, since the State was failing to discharge its primary obligation to provide an effective domestic remedy. The monitoring body should then seek to examine why the domestic legal system did not solve the problem and, in that way, help to promote action which would persuade the domestic legal system to ensure that future cases in the same field did not arise. There were two types of alleged violations: (a) those involving a problem of a legal nature which concerned the provisions of domestic law, as interpreted and applied by national judges; and (b) those involving a factual allegation which, if substantiated, would be a violation of human rights.

33. Mr. Guissé commented that the effective remedies at the State level were an important subject for a United Nations study, to ensure that people could live on the basis of law and legal rules. Justice was often a two-track system: one for the wealthy and another for the poor. In developing countries, and above all in black Africa, a person without financial means did not truly have access to justice, including legal assistance. This was especially significant in cases of deprivation of liberty, with most cases of torture occurring at the police stations. Furthermore, immigrants detained by the police were without the protection of national and international laws. In developing countries, the exhaustion of domestic remedies could last a very long time and the international community should give more thought to this requirement. The lack of compensation to victims of human rights violations was another area of concern.

34. Mr. Guissé and Ms. O'Connor agreed that there was a need to move towards complementary national and international systems regarding provision of domestic remedies. Ms. O'Connor observed that interpretation of that concept by national judges often constituted a

real problem, as they lacked knowledge about international obligations. Additionally, judgements of international bodies were often not considered legally binding. Unless the judges - but also lawyers and government officials - were educated and sensitized about international law and obligations, conflict with domestic procedures would always exist. The Sub-Commission should undertake a study to examine the investigatory processes, which could help to understand what was required for a free and fair trial and to address the perception that there was one law for the rich and another for the poor.

35. According to Mr. Yokota, the Government of Japan was willing to undertake human rights education but the principle of separation of powers constituted an obstacle. The judiciary was independent and the Government could suggest, but never ensure, that judges were taught about the relevant international instruments. Another obstacle was the language, since any material had to be in Japanese for judges to understand. As to the international treaty obligations, Japan was required by its Constitution to "respect faithfully" treaties to which it was a party. This was overwhelmingly interpreted to mean that those treaties were binding on citizens, and on judges as well. While Japanese law agreed that international treaties were above national legislation, the constitutional law was considered to be above international treaties. The constitutional law had been interpreted by constitutional law specialists, and unless they were familiar with the international human rights instruments, they ignored them and only considered constitutional law. In response to Mr. Yokota's question regarding the legal status of recommendations and comments of treaty bodies, Mr. Eide said that the general comments of treaty bodies were not binding but must be given "considerable weight".

36. Ms. Zerrougui and Mr. Sorabjee believed that the international treaty obligations should be incorporated into domestic law in order to be more effective. Mr. Sorabjee further stated that the separation of powers also existed in India but judges were gradually becoming amenable to developments at the European Court of Human Rights and elsewhere and to interpreting constitutional provisions in the light of international treaties. Judges needed to be educated and also sensitized. Ms. Zerrougui observed that even if legal aid in developing countries, were to be provided, the questions remained whether the existing resources were sufficient to provide an effective defence.

37. An observer for the Canadian Inuit Indigenous Group expressed concern regarding the administration of justice among the indigenous peoples of Canada, which required attention. Indigenous peoples were over-represented in the national penal system. There was systemic

discrimination in the administration of justice. Attention was drawn to the norms of ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, according to which preference should be given to methods of confinement other than prison. It should be ensured that indigenous peoples could understand and be understood in legal proceedings since admissions against interest were made because of lack of understanding.

38. Ms. Hampson made final comments and clarified that the overall focus of the study was not just on criminal process, but what an individual could do in order to achieve an effective domestic remedy. In the case of individual complaints of human rights violations committed by a Government, the issue was the relationship between international and domestic law. In the case of individual complaints of ill-treatment while in detention and the search for a remedy, the issue related to the national prosecutor and his relationship with the police. In many instances, where States had functioning legal systems and commitments to human rights, there were still numerous complaints of human rights violations. The problem often arose sometime after the initial investigation process. In some cases, it might be corruption, or a lack of resources, training or education. It was vital that anybody examining why human rights violations were occurring unbundle the issues in order to understand the problem.

39. The observer of the Indigenous World Association posed questions regarding the jurisdiction of the International Criminal Court and a ilability of remedies for indigenous people who faced military action.

V. TRANSITIONAL JUSTICE: MECHANISMS OF TRUTH AND RECONCILIATION

40. Ms. Motoc reported that, recently, as a follow-up to international conflicts, several mechanisms of transitional justice had been established, including 9 truth and reconciliation commissions and 24 national commissions. Additionally, 22 States had decided to have their domestic jurisdictions address those issues. Another example of transitional justice mechanisms could be found in countries that had emerged from totalitarian regimes, such as those of Eastern Europe.

41. The work of all the truth and reconciliation commissions had certain characteristics in common. Commissions must consider the past and incidents that had occurred during a specific time period. They must publicize the collected information. Commissions had flexible procedures but sometimes lacked the ability to provide protection for witnesses. Their success often depended upon the political will of national authorities. Some commissions offered an

assurance of amnesty, others did not. Results achieved by the commissions differed from country to country. It was sometimes believed that a single mechanism was not enough and, for some countries, a concurrent truth commission or international court was established. National commissions and courts might also provide justice.

42. In the 1990s, experts studied the problem of impunity in Eastern Europe and decided that because of the long duration of the totalitarian regimes and the large number of people involved, it would be counterproductive and costly to establish truth and reconciliation commissions. As a partial remedy, some countries established commissions that addressed problems that people had with the secret police. In some instances, the public was provided with access to the secret police files. The question for Eastern European countries remained how to balance the human rights violations committed and the consequences of those actions.

43. In answer to a question from Ms. Rakotoarisoa, Ms. Motoc explained that the truth and reconciliation commissions were national, consisted of national and international experts and personalities, and had a seat in a given country. One model of restorative justice was often not enough in any given situation and there had been recommendations that, in addition to national commissions, an international tribunal would be established with the same purpose but with other methods of achieving justice.

44. Mr. Yokota pointed out that a very difficult question remained: how to justify the truth and reconciliation commissions when serious human rights violations were committed and the international community did not accept impunity or amnesty. Mr. Dos Santos Alves said that the situation of each country should be examined separately and carefully because the solution for one country was not necessarily suitable for another.

VI. OTHER ISSUES

A. Discriminatory rules of evidence with regard to rape and sexual assault

45. Ms. Hampson said that the rape of women, and to a lesser extent men, was a large worldwide problem. The extent of under-reporting of rape was enormous. Ms. Hampson asked for her colleagues' reactions as to whether the issue merited its own study, with a particular focus on how the rules of evidence, with regard to cross-examination and witnesses, impacted on rape and sexual assault convictions. There were problems of discrimination relating to the general rules of evidence as well as specific rules of evidence relating to those offences. The situation was even more complicated with regard to the rape and sexual assault of children because it was often a relative who was accused.

46. Mr. Yokota agreed that this was a very important issue which should be addressed by the Sub-Commission. Ms. Rakotoarisoa said that the sexual exploitation of minors and problems in prosecuting the rape and sexual assault of children were important issues.

B. Current trends in international criminal justice

47. Mr. Guissé shared his thoughts on the international criminal justice system and the direction in which it should develop. International justice was complementary to national justice. International criminal law thus should be developed to form a link between international and domestic law. A conflict of jurisdiction between international and national justice could lead to a total denial of justice. Therefore, there must be a hierarchy within the systems which would prevent overlap and conflicts of jurisdiction. Recent developments in the international penal justice system included the establishment of the International Criminal Court. Additionally, ad hoc tribunals such as the International Criminal Tribunals for the Former Yugoslavia and Rwanda were in place. The developments of international criminal law needed to be discussed, in particular when the ad hoc tribunals disappeared and the International Criminal Court had the sole jurisdiction over international crimes. In the upcoming years, the working group should consider the evolution of the international criminal justice system, including universal and regional jurisdictions. Mr. Guissé offered to prepare a working paper for the next session of the working group summarizing relevant judicial decisions and other developments in this field.

48. Ms. Hampson commented that the concept of exercising national jurisdiction over foreigners, as was the case in Denmark, Switzerland and Belgium, would also be an interesting source for the study. In those cases, the domestic institutions exercised some kind of universal jurisdiction. Ms. Rakotoarisoa welcomed the creation of the Special Court for Sierra Leone as an important step in the fight against impunity.

49. According to the observer for the International Service for Human Rights, the proposed study was interesting for NGOs. The study, however, should go further and take account of universal jurisdiction and also focus on building bridges between international and local aspects of criminal law. Additional issues such as impunity should be also addressed. The Chairperson-Rapporteur recommended that NGOs be involved in the preparation of the study.

50. The observer for Algeria commented on the evolution of the international justice system.

51. The observer for Interfaith International drew attention to the lack of a fair trial currently occurring in Hong Kong, where 16 members of the Falun Gong were on trial.

VII. PROVISIONAL AGENDA FOR THE NEXT SESSION

52. During its second meeting, on 2 August 2002, the working group agreed on its provisional agenda for its next session. Ms. Hampson proposed to prepare a document on the domestic implementation in practice of the obligation to provide domestic remedies. Ms. Rakotoarisoa proposed to submit a working paper on problems in prosecuting rape and sexual assault. Ms. Motoc would prepare a working paper on transitional justice. In addition, Ms. Hampson fully supported Ms. Motoc's suggestion that the working group should cooperate with academia and NGOs in its work.

53. The provisional agenda for the next session is as follows:

1. Election of officers.
2. Adoption of the agenda.
3. Issues related to the deprivation of the right to life, with special reference to the imposition of the death penalty.
4. Privatization of prisons.
5. Current trends in international penal justice.
6. The domestic implementation in practice of the obligation to provide domestic remedies.
7. Transitional justice: mechanisms of truth and reconciliation.
8. Witnesses and rules of evidence:
   (a) Medical secrecy;
   (b) Problems in prosecuting rape and sexual assault, especially the problem of gender discrimination.
9. Provisional agenda for the next session.
10. Adoption of the report.

VIII. ADOPTION OF THE REPORT OF THE WORKING GROUP TO THE SUB-COMMISSION

53. On 8 August 2002, the working group unanimously adopted the present report to the Sub-Commission. The working group agreed to request the Sub-Commission to allocate two full meetings of three hours each, plus an additional session of one hour for adoption of the report, during its 2003 session. The working group further suggested that its first meeting be held on the afternoon of the first Monday of the 2003 session of the Sub-Commission.